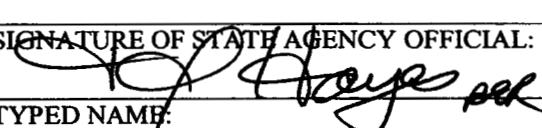


<b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL</b>		1. TRANSMITTAL NUMBER: TN 04-009	2. STATE Ohio
<b>FOR: CENTERS FOR MEDICAID AND MEDICAID SERVICES</b>		3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID) Title XIX	
TO: REGIONAL ADMINISTRATOR HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES		4. PROPOSED EFFECTIVE DATE July 1, 2004	
5. TYPE OF PLAN MATERIAL ( <i>Check One</i> ):			
<input type="checkbox"/> NEW STATE PLAN <input type="checkbox"/> AMENDMENT TO BE CONSIDERED AS NEW PLAN <input checked="" type="checkbox"/> AMENDMENT			
COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT ( <i>Separate Transmittal for each amendment</i> )			
6. FEDERAL STATUTE/REGULATION CITATION: Section 1902 (a)(13)(A) of the Social Security Act		7. FEDERAL BUDGET IMPACT: a. FFY      2004                      (\$ 0) b. FFY      2005                      (\$ 0)	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:  Attachment 4.19D rules: 5101:3-3-17.3 5101:3-3-25 5101:3-3-54.1 5101:3-3-54.5 5101:3-3-87.1		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT ( <i>If Applicable</i> ):  Attachment 4.19D rules: 5101:3-3-17.3                      5101:3-3-54.5 5101:3-3-25                      5101:3-3-87.1 5101:3-3-54.1	
10. SUBJECT OF AMENDMENT: The rules contained in this amendment were submitted in accordance with rule review provisions of Ohio Revised Code 119.032.			
11. GOVERNOR'S REVIEW ( <i>Check One</i> ):			
<input type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT		<input checked="" type="checkbox"/> OTHER, AS SPECIFIED:	
<input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED		The Governor's office has delegated review to	
<input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL		the Director of ODJFS.	
12. SIGNATURE OF STATE AGENCY OFFICIAL: 		16. RETURN TO:	
13. TYPED NAME: Thomas J. Hayes		Becky Jackson Bureau of Health Plan Policy Ohio Department of Job and Family Services 30 East Broad Street, 27 <sup>th</sup> floor Columbus, Ohio 43215-3414	
14. TITLE: Director			
15. DATE SUBMITTED: July 16, 2004			



5101:3-3-17.3

**Out-of-state placement for individuals with traumatic brain injury (TBI).****(A) Purpose:**

This rule identifies the process for prior authorization of out-of-state long-term care (LTC) services for individuals with TBI. This rule sets forth:

- (1) In paragraph (C) of this rule, the criteria to determine if an individual with a nursing facility (NF) TBI ~~LOC~~ level of care (LOC) is eligible for out-of-state TBI services; and
- (2) In paragraph (D) of this rule, the conditions under which a NF or a discrete unit within a NF may be approved by the Ohio department of job and family services (ODJFS) as an eligible provider of out-of-state NF-TBI services and thereby receive payment established in accordance with this rule; and
- (3) In paragraph (E) of this rule, the prior authorization process for admission or continued stay for individuals who are seeking medicaid payment for out-of-state NF-TBI services; and
- (4) In closing paragraphs of this rule, details about the provider agreement addendum, authorization for payment, and materials to be submitted by the provider to support the establishment of the initial and subsequent contracted per diem rate.

**(B) Definitions:**

- (1) "Individual", for purposes of this rule, means any person with TBI seeking or receiving out-of-state prior authorized TBI services.
- (2) "Level of care (LOC) review" is the evaluation of an individual's physical, mental and social/emotional status to determine the LOC required to meet the individual's service needs and includes activities necessary to safeguard against unnecessary utilization. LOC determinations are based upon the criteria regarding the amount and type of services needed by an individual that are set forth in rules contained in Chapter 5101:3-3 of the Administrative Code. The LOC process is also the mechanism by which medicaid vendor payment is initiated.
- (3) "Ohio department of job and family services (ODJFS) out-of-state TBI designated coordinator", means the designated ODJFS staff member who coordinates the general operation of the out-of-state prior authorization process for individuals with TBI. The coordinator's duties include but are not

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limited to the following:

- (a) Assisting with the initial approval and ongoing monitoring of the individual requiring out-of-state TBI services and;
  - (b) Coordinating the processing of TBI out-of-state requests and continued stay prior authorization requests for individuals and;
  - (c) Serving on the TBI out-of-state prior authorization committee and;
  - (d) Reviewing documents for out-of-state LTC TBI services for individuals pursuant to rule 5101:3-1-31 of the Administrative Code. This coordinator works actively with the individual and/or his/her representatives requesting and receiving out-of-state TBI services, other service agencies, and within ODJFS.
- (4) "PAS" means preadmission screening and refers to that part of the preadmission screening and annual resident review (PASARR) process, which must be met prior to any new admission to a NF and completed in accordance with rule 5101:3-3-15.1 of the Administrative Code.
- (5) "Physician" means a doctor of medicine or osteopathy who is licensed to practice medicine.
- (6) "Rancho los amigos (RLA) hospital levels of cognitive functioning scale" means a scale designed to measure and track an individual's progress regarding levels of cognitive functioning. The RLA scale (see the appendix to this rule) has been used as a means to develop "level specific" treatment interventions and strategies designed to facilitate movement from one level to another. The RLA level of an individual is determined based on behavioral observations.
- (7) "Representative", means a person acting on behalf of an individual who is applying for or receiving medical assistance. A representative may be a family member, guardian, attorney, hospital social worker, or any other person chosen to act on the individual's behalf.
- (8) "TBI prior authorization committee" means a committee organized and operated by ODJFS that makes TBI out-of-state prior authorization determinations.
- (9) "Traumatic brain injury (TBI)," for purposes of this rule, is defined as an acquired injury to the brain caused by an external physical force, resulting in

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total or partial functional disability or psychosocial impairment, or both. The term applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgement; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. The term does not apply to brain injuries that are congenital or degenerative, or brain injuries induced by birth trauma. TBI also excludes brain damage due to anoxia, metabolic disorders, cerebral vascular insults, or other internal causes.

(C) Eligibility criteria for individuals.

To receive prior authorization approval for out-of-state placement for NF-TBI services, the individual must meet all the criteria in paragraphs (C)(1) to (C)(9) of rule 5101:3-3-54.1 of the Administrative Code and be inappropriately served or unserved in Ohio. A individual will be considered inappropriately served or unserved when the individual has tried to access the services specified in rule 5101:3-3-54.1 of the Administrative Code and a prior authorized admission to an Ohio NF-TBI facility is unavailable for placement in a timely manner.

(D) Provider eligibility.

In order to obtain an "out-of-state NF-TBI provider agreement" and thereby qualify to provide NF-TBI services for individuals who have received prior authorization for admission or continued stay by ODJFS, the provider must meet all of the following requirements plus the requirements in paragraphs (D)(5), (D)(6), (D)(7), (D)(9), (D)(10), (D)(12), and (D)(13) of rule 5101:3-3-54.1 of the Administrative Code prior to enrollment as an out-of-state NF-TBI provider. At regular intervals subsequent to that enrollment, to be determined by ODJFS, ODJFS shall determine whether the qualifications are fulfilled; through review of documentation of appropriate policies and procedures, completion of on-site visits, or through other mechanisms as determined by ODJFS to be appropriate.

(1) Certified NF.

The provider must be a medicaid-certified NF.

(2) Contracted rates.

The rate paid the provider will be based on materials submitted by the provider in accordance with paragraphs (H) and (I) of this rule. ODJFS shall contract with the provider to set initial and subsequent rates. With the exception of any specific items that are direct billed in accordance with rule 5101:3-3-19 of the Administrative Code, the provider must agree to accept, as

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payment in full, the per diem rate established for NF-TBI services in accordance with this rule, and to make no additional charge to the individual, any member of the individual's family, or to any other source for covered NF-TBI services. The provider shall assure ODJFS that consultants, ancillary, and acute services not covered in the contract rate can be made available to an individual on the Ohio medicaid program.

(E) Prior authorization for services.

Reimbursement for out-of-state NF-TBI services covered by the medical assistance program is available only upon prior authorization from the TBI prior authorization committee in accordance with the procedures set forth in paragraph (E) of rule 5101:3-3-54.1 of the Administrative Code.

(F) Provider agreement addendum.

After ODJFS has approved the NF as a qualified provider of out-of-state NF-TBI services, both parties shall sign the JFS 03642, an addendum to the Ohio medical assistance program's LTC facility provider agreement (JFS 03623). This addendum must also be signed as a part of each subsequent annual provider agreement renewal with ODJFS, unless the provider chooses to withdraw as a provider of this NF-TBI out-of-state service or is determined by ODJFS to no longer meet the qualifications set forth in paragraph (D) of this rule.

(G) Authorization of payment.

Authorization of payment to an eligible provider for the provision of out-of-state NF-TBI services shall correspond with the effective date of the individual's NF-TBI prior authorization approval specified by the TBI prior authorization committee, but shall not be earlier than the effective date of the individual's LOC determination. This date shall be:

- (1) The date of admission to the NF-TBI unit if it is within thirty days of the physician's signature; or
- (2) If the individual was required to undergo PAS and failed to do so prior to admission, the effective date of the LOC determination and NF-TBI eligibility determination shall be the later of the date of the PAS determination that the individual required the level of services available in a NF, or the date established in paragraph (G)(1) of this rule.

(H) Initial contracted rate.

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- (1) The initial rate for a newly approved provider of out-of-state NF-TBI services will be based upon the rates received by the facility from its state of residence or the Ohio average rate paid to NF-TBI prior authorized facilities, whichever is lower. Any contracted rate shall first be approved by the ODJFS director.
  - (2) ODJFS will establish the initial contracted rate no later than ninety days after ODJFS receives all the required information from the provider. The initial contracted rate will be implemented retroactively to the initial date services were provided pursuant to the out-of-state NF-TBI provider agreement.
  - (3) The rate the facility is receiving for services in its state of residence may be submitted as soon as the provider receives notification from ODJFS of the effective date of the out-of-state NF-TBI provider agreement, but must be submitted within ninety days of the provider agreement's effective date.
  - (4) Prior authorized out-of-state NF-TBI facilities shall not be required to submit financial and statistical reports as required by rule 5101:3-3-20 of the Ohio Administrative Code.
  - (5) Payment for periods when the individual is absent for visitation or hospitalization will be made to the out-of-state facility in accordance with rule 5101:3-3-59 of the Ohio Administrative Code.
- (I) Contracted rates subsequent to the initial rate year.
- (1) The contracted rate will be effective for the fiscal year beginning on the first of July and ending on the thirtieth day of June of the following calendar year.
  - (2) ODJFS will establish the contracted rate for subsequent fiscal years in accordance with paragraph (H) of this rule.

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Effective: 07/01/2004

R.C. 119.032 review dates: 04/15/2004 and 07/01/2009

CERTIFIED ELECTRONICALLY

\_\_\_\_\_  
Certification

06/21/2004  
\_\_\_\_\_

Date

Promulgated Under: 119.03  
Statutory Authority: 5111.02  
Rule Amplifies: 5111.01, 5111.02, 5111.21,  
5111.22  
Prior Effective Dates: 9/3/87 (Emer.), 12/28/87,  
10/1/91 (Emer.), 12/20/91,  
7/1/02

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**Rancho Los Amigos Levels of Cognitive Functioning**

<b>Level I</b>	<b>No Response: Total Assistance</b>
Complete absence of observable change in behavior when presented visual, auditory, tactile, proprioceptive, vestibular or painful stimuli.	
<b>Level II</b>	<b>Generalized Response: Total Assistance</b>
Demonstrates generalized reflex response to painful stimuli.	
Responds to repeated auditory stimuli with increased or decreased activity.	
Responds to external stimuli with physiological changes generalized, gross body movement and/or not purposeful vocalization.	
Responses noted above may be same regardless of type and location of stimulation.	
Responses may be significantly delayed.	
<b>Level III</b>	<b>Localized Response: Total Assistance</b>
Demonstrates withdrawal or vocalization to painful stimuli.	
Turns toward or away from auditory stimuli.	
Blinks when strong light crosses visual field.	
Follows moving object passed within visual field.	
Responds to discomfort by pulling tubes or restraints.	
Responds inconsistently to simple commands.	
Responses directly related to type of stimulus.	
May respond to some persons (especially family and friends) but not to others.	
<b>Level IV</b>	<b>Confused/Agitated: Maximal Assistance</b>
Alert and in heightened state of activity.	
Purposeful attempts to remove restraints or tubes or crawl out of bed.	
May perform motor activities such as sitting, reaching and walking but without any apparent purpose	

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or upon another's request.	
Very brief and usually non-purposeful moments of sustained alternatives and divided attention.	
Absent short-term memory.	
May cry out or scream out of proportion to stimulus even after its removal.	
May exhibit aggressive or flight behavior.	
Mood may swing from euphoric to hostile with no apparent relationship to environmental events.	
Unable to cooperate with treatment efforts.	
Verbalizations are frequently incoherent and/or inappropriate to activity or environment.	
<b>Level V</b>	<b>Confused, Inappropriate Non-Agitated: Maximal Assistance</b>
Alert, not agitated but may wander randomly or with a vague intention of going home.	
May become agitated in response to external stimulation, and/or lack of environmental structure.	
Not oriented to person, place or time.	
Frequent brief periods, non-purposeful sustained attention.	
Severely impaired recent memory, with confusion of past and present in reaction to ongoing activity.	
Absent goal directed, problem solving, self-monitoring behavior.	
Often demonstrates inappropriate use of objects without external direction.	
May be able to perform previously learned tasks when structured and cues provided.	
Unable to learn new information.	
Able to respond appropriately to simple commands fairly consistently with external structures and cues.	
Responses to simple commands without external structure are random and non-purposeful in relation to command.	
Able to converse on a social, automatic level for brief periods of time when provided external structure and cues.	
Verbalizations about present events become inappropriate and confabulatory when external structure and cues are not provided.	

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<b>Level VI</b>	<b>Confused, Appropriate: Moderate Assistance</b>
Inconsistently oriented to person, time and place.	
Able to attend to highly familiar tasks in non-distracting environment for 30 minutes with moderate redirection.	
Remote memory has more depth and detail than recent memory.	
Vague recognition of some staff.	
Able to use assistive memory aide with maximum assistance.	
Emerging awareness of appropriate response to self, family and basic needs.	
Moderate assist to problem solve barriers to task completion.	
Supervised for old learning (e.g. self care).	
Shows carry over for relearned familiar tasks (e.g. self care).	
Maximum assistance for new learning with little or no carry over.	
Unaware of impairments, disabilities and safety risks.	
Consistently follows simple directions.	
Verbal expressions are appropriate in highly familiar and structured situations.	
<b>Level VII</b>	<b>Automatic, Appropriate: Minimal Assistance for Daily Living Skills</b>
Consistently oriented to person and place, within highly familiar environments.	
Moderate assistance for orientation to time.	
Able to attend to highly familiar tasks in a non-distraction environment for at least 30 minutes with minimal assist to complete tasks.	
Minimal supervision for new learning.	
Demonstrates carry over of new learning.	
Initiates and carries out steps to complete familiar personal and household routine but has shallow recall of what he/she has been doing.	
Able to monitor accuracy and completeness of each step in routine personal and household ADLs and modify plan with minimal assistance.	
Superficial awareness of his/her condition but unaware of specific impairments and disabilities and the	

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